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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,881	01/29/2004	Javier Patron	PATRO.001A	7301
20995	7590	06/06/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/768,881	PATRON, JAVIER	
<b>Examiner</b>		<b>Art Unit</b>	
Fred Prince		1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 07 March 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 0304,0305.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Munsch et al. (US Pat No 5,667,671).

Munsch et al. teach a filter system and method comprising a biological chamber (160) for holding biological media (174), said biological chamber comprising at least one drip drawer (170) having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 7, lines 14-19).

3. Claims 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim (US Pat No 6,156,209).

Kim teaches collecting water from a protein skimmer (20), and diverting at least a portion of said water back to the protein skimmer prior to being returned to the aquarium (via valve 41; Fig. 10).

4. Claims 6 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tlok (US Pat No 5,910,248).

Tlok teaches a filter system and method comprising a biological chamber (1) for holding biological media (6), said biological chamber comprising at least one drip

drawer (5), having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 6, lines 1-12).

5. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Chen (US Pat No 5,460,722).

Chen teaches a biological chamber (A) for holding biological media (E), said biological chamber comprising at least one drip drawer (2) having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 2, lines 2-22).

6. Claims 6-7, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Weinstein (US Pat No 5,306,421).

Weinstein teaches a filter system and method comprising a biological chamber (Fig. 1) for holding biological media (36), said biological chamber comprising two drip drawers (31, 35), at least one of which having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 4, lines 26-26; col. 7, lines 10-18) and further comprising a media filter pad (32).

7. Claims 6, 8, and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Giovanetti et al. (US Pat No 5,108,594).

Giovanetti et al. teach a filter system and method comprising a biological chamber (12) for holding biological media (18), said biological chamber comprising at least one removable drip drawer (24,20) on a holder (walls 12a, 12b, 12c, 12d), having a plurality of bores therein to distribute water substantially evenly over the biological media (abstract).

8. Claims 1-6, 10, and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole (US Pat No 4,988,436).

Cole teaches a filter system and method comprising a housing having a prefilter chamber (77; col. 5, lines 1-3) a biological chamber (33) for holding biological media (39), said biological chamber comprising at least one drip drawer (41) having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 4, lines 5-24), a sump chamber (below biological filter 33), a protein skimmer (91) receiving water from the sump chamber, a diverter forming a trough via vertically inwardly extending partitions (111, 119; Fig. 1; col. 6, lines 3-17), and a filter media pad (63).

9. Claims 6-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Quick, Jr. (US Pat No 4,427,548).

Quick, Jr. teaches a filter system and method comprising a biological chamber (14) for holding biological media (36), said biological chamber comprising at least two removable drip drawers (32 on bottom and middle of Fig. 2), at least one of which having a plurality of bores therein to distribute water substantially evenly over the biological media (col. 4, lines 54-58), at least one ledge (38), and further comprising a charcoal media filter pad (36, col. 3, lines 58-60).

10. Claims 1-4 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Carmignani et al. (US Pat No 3,957,017).

Carmignani et al. teach a housing comprising a pre-filter chamber (102) having a pre-filter (112) configured to collect and filter water from the aquarium and a protein

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skimmer (), and a sump chamber (106), a diverter forming a trough via vertical extending partitions (115, 117), wherein water is directed from the pre-filter chamber to the sump chamber, and wherein a portion of the water flowing through the sump chamber is directed to the protein skimmer (128) with a portion recycled to the protein skimmer several times (col. col. 8, lines 49-63; col. 9, lines 9-18).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carmignani et al.

Carmignani et al. is described above. Carmignani et al. do not disclose using a pump to return water to the aquarium.

It is submitted that it is well within the purview of the skilled artisan to use a pump to move water from one point to another. Accordingly, it would have been readily obvious for the skilled artisan to modify the system of Carmignani et al. such that it includes a pump in order to move the treated water back to the aquarium.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fred Prince  
Primary Examiner  
Art Unit 1724

fgp  
6/1/05